

1  
2  
3  
4  
5  
6 IN THE UNITED STATES DISTRICT COURT  
7  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9

10 ANDREW LANCASTER, JEFFERY MILLS,  
11 DEXTER WILLIAMS, WILLIAM DENNIS,  
12 STEVE LIVADITIS, JIMMY VAN PELT,  
H. LEE HEISHMAN III AND JOHNATON  
GEORGE,

13 Plaintiffs,

14 v.

15 JAMES E. TILTON, Acting Secretary,  
16 California Department of Corrections and  
17 Rehabilitation, and ROBERT L. AYERS, JR.,  
Acting Warden, San Quentin State Prison,

18 Defendants.  
19 \_\_\_\_\_/

No. C 79-01630 WHA

**ORDER DENYING REQUEST OF  
INMATE VAN PELT FOR NEW  
COUNSEL**

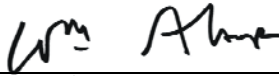
20 Inmate Jimmy Van Pelt requests, in light of the recent December 21 order, that class  
21 counsel be substituted because of counsel's "inept strategies and tactics in defending and  
22 prosecuting this case." If this request is not granted, he requests that he be granted intervention  
23 and appointment of new counsel to protect his personal interests (Dkt. 1336).

24 It is important that the class be represented by competent counsel that diligently protects  
25 the interests of the class. It is also true that the December 21 order found that class counsel had  
26 ample and repeated opportunities to inquire into prison conditions. In fact, the Court found that  
27 class counsel had invested hundreds of hours in inquiring into prison conditions. Class counsel  
28 is therefore in a position to competently and capably represent the class with respect to any  
factual issues involved. While it is further true that class counsel stubbornly claimed it needed

1 yet further opportunities for discovery and investigation and made a studied attempt to avoid  
2 briefing the issue on the merits, the Court nonetheless reviewed the voluminous record already  
3 assembled and only ruled on those issues where it was clear that no further evidence gathering  
4 was needed. The Court is convinced that even the best of counsel could not have achieved a  
5 different outcome from the December 21 order. Class counsel are capable of adequately  
6 representing the class. Inmate Van Pelt's request for new counsel or, in the alternative, to  
7 intervene is therefore **DENIED**.

8  
9 **IT IS SO ORDERED.**

10  
11 Dated: January 4, 2008.

12   
13 \_\_\_\_\_  
14 WILLIAM ALSUP  
15 UNITED STATES DISTRICT JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28